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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,729	04/16/2004	Baird M. Smith	PA2627US	8824

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EXAMINER	
NAJARIAN, LENA	
ART UNIT	PAPER NUMBER
3686	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/825,729	SMITH, BAIRD M.	
	Examiner	Art Unit	
	LENA NAJARIAN	3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 September 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Request for Continued Examination (RCE) filed 9/10/09. Claims 1 and 22 have been amended. Claims 1-26 remain pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/10/09 has been entered.

Specification

3. The amendment filed 9/10/09 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The newly added recitation of "interpreting the received patient information...*automatically* transmitting control instructions... applying virtual medical logic based on patient information *and research data* to generate

decision making options for healthcare personnel" within claims 1 and 22 appear to constitute new matter.

In particular, Applicant does not point to, nor was the Examiner able to find support for this newly added language within the specification as originally filed. As such, Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
(A) Claims 1 and 22 recite limitations that are new matter, as discussed above, and are therefore rejected.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

NOTE: The following rejections assume that the subject matter added in the 9/10/09 amendment are NOT new matter, and are provided hereinbelow for Applicant's consideration, on the condition that Applicant properly traverses the new matter objections and rejections made in sections 3-5 above in the next communication sent in response to the present Office Action.

7. Claims 1-12, 14-20, and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reeder et al. (US 2002/0044059 A1) in view of Cairnes (6,139,494).

(A) Referring to claim 1, Reeder discloses an integrated point-of-care system comprising (abstract and para. 2 of Reeder):

a medical monitoring device configured to monitor patient information for a patient (para. 12 of Reeder);

a medical care device configured to provide medical care to the patient (para. 14 and para. 84 of Reeder);

a computing system configured to receive patient information from the medical monitoring device, interpret the patient information, automatically transmit control instructions to the medical care device to control the medical care to the patient based on the patient information, and exchange data with a

central data repository through a communication network (para. 12, para. 14, para. 84, para. 86-87, para. 92, and para. 134 of Reeder); and

a single structure configured to support the patient, the medical monitoring device, the medical care device, and the computing system and transport the patient, the medical monitoring device, the medical care device, and the computing system together (Fig. 23, para. 3, para. 42, and para. 99 of Reeder).

Reeder does not disclose generating, based on medical logic rules and the patient information, decision-making options for health care personnel, providing the decision-making options for display, and wherein the computing system is further configured to apply virtual medical logic based on patient information and research data to generate decision making options for health care personnel, then provide the decision-making options for display.

Cairnes discloses generating, based on medical logic rules and the patient information, decision-making options for health care personnel, providing the decision-making options for display, and wherein the computing system is further configured to apply virtual medical logic based on patient information and research data to generate decision making options for health care personnel, then provide the decision-making options for display (col. 7, line 60-col. 8, line 4, col. 5, lines 7-42, and col. 14, lines 1-21 of Carines).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Cairnes within Reeder. The motivation for doing so would have been to recommend customized therapies (col. 7, line 60 – col. 8, line 4 of Cairnes).

(B) Referring to claim 2, Reeder discloses wherein the patient information comprises vital signs of the patient (para. 3 and para. 103 of Reeder).

(C) Referring to claim 3, Reeder discloses wherein the structure comprises a mattress configured to support the patient (para. 122 and Fig. 15 of Reeder).

(D) Referring to claim 4, Reeder discloses wherein the medical care device is configured to administer a medication to the patient (para. 121 of Reeder).

(E) Referring to claim 5, Reeder discloses a power supply configured to supply power to the medical care device and the medical monitoring device (para. 14 of Reeder).

(F) Referring to claim 6, Reeder discloses wherein the power supply comprises a battery (para. 123 of Reeder).

(G) Referring to claim 7, Reeder discloses wherein the computing system further comprises a display device configured to display the control instructions or patient information (para. 4 and Fig. 1 of Reeder).

(H) Referring to claim 8, Reeder discloses wherein the display device comprises a flat-screen touch panel configured to allow user input for controlling the operation of the medical care device or the medical monitoring device (para. 85 and para. 95 of Reeder).

(I) Referring to claim 9, Reeder discloses wherein the computing system further comprises a keyboard (para. 6 of Reeder).

(J) Referring to claim 10, Reeder discloses wherein the communication network is wireless (para. 6 and para. 89 of Reeder).

(K) Referring to claim 11, Reeder discloses wherein the computing system further comprises a memory storage system configured to store the patient information or control instructions (para. 5 of Reeder).

(L) Referring to claim 12, Reeder discloses wherein the computing system further comprises an identification device configured to identify a person (para. 105 of Reeder).

(M) Referring to claim 14, Reeder discloses wherein the identification device comprises a voice recognition device (para. 85 of Reeder).

(N) Referring to clam 15, Reeder discloses wherein the identification device comprises a visual recognition device (para. 134 of Reeder).

(O) Referring to claim 16, Reeder discloses a camera configured to generate a visual image (para. 90 of Reeder).

(P) Referring to claim 17, Reeder discloses wherein the computing system further comprises a barcode reader (para. 6 of Reeder).

(Q) Referring to claim 18, Reeder discloses wherein the computing system further comprises a communication interface configured to communicate with the Internet (para. 90 of Reeder).

(R) Referring to claim 19, Reeder discloses wherein the computing system further comprises a communication interface configured to communicate with a television service provider (para. 115 of Reeder).

(S) Referring to claim 20, Reeder discloses a plurality of wheels mounted on the bottom of the structure to facilitate transport of the patient and the medical devices (Fig. 18 of Reeder).

(T) Referring to claim 22, Reeder discloses a method of operating an integrated point-of-care system comprising the steps of (abstract and para. 2 of Reeder):

supporting a patient, a computing system, a medical care device, and a medical monitoring device by using a single structure (Fig. 23, para. 3, para. 42, and para. 99 of Reeder);

receiving patient information from the medical monitoring device into the computing system (para. 12 of Reeder);

interpreting the received patient information (para. 12 of Reeder);

automatically transmitting control instructions to the medical care device through the computing system to provide medical care to the patient based on the patient information (para. 14, para. 84, para. 86-87, para. 92, and para. 134 of Reeder);

exchanging data between the computing system and a central data repository through a communication network (para. 14, para. 84, and para. 92 of Reeder); and

transporting the patient, the medical monitoring device, the medical care device, and the computing system together by using the single structure (Fig. 23, para. 3, para. 42, and para. 99 of Reeder).

Reeder does not disclose generating, based on medical logic rules and the patient information, decision-making options for health care personnel; applying virtual medical logic based on patient information and research data to generate decision making options for health care personnel, and providing the decision-making options for display.

Cairnes discloses generating, based on medical logic rules and the patient information, decision-making options for health care personnel; applying virtual medical logic based on patient information and research data to generate decision making options for health care personnel, and providing the decision-making options for display (col. 7, line 60-col. 8, line 4, col. 5, lines 7-42, and col. 14, lines 1-21 of Carines).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Cairnes within Reeder. The motivation for doing so would have been to recommend customized therapies (col. 7, line 60 – col. 8, line 4 of Cairnes).

(U) Referring to claim 23, Reeder discloses the step of displaying the patient information (abstract of Reeder).

(V) Referring to claim 24, Reeder discloses the step of identifying a person authorized to operate the computing system by using an identification device (para. 11 of Reeder).

(W) Referring to claim 25, Reeder discloses the step of identifying the patient by using an identification device (para. 11 of Reeder).

(X) Referring to claim 26, Reeder discloses the step of identifying a medication to be administered to the patient by using an identification device (para. 121 and para. 86 of Reeder).

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reeder et al. (US 2002/0044059 A1) in view of Cairnes (6,139,494), and further in view of Bui et al. (US 2003/0140928 A1).

(A) Referring to claim 13, Reeder and Cairnes do not disclose wherein the identification device comprises a fingerprint recognition device.

Bui discloses wherein the identification device comprises a fingerprint recognition device (para. 22, para. 125, and para. 128 of Bui).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Bui within Reeder and Cairnes. The motivation for doing so would have been to determine unique physical characteristics in order to provide security (para. 125 of Bui).

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reeder et al. (US 2002/0044059 A1) in view of Cairnes (6,139,494), and further in view of Kramer et al. (US 2002/0014951 A1).

(A) Referring to claim 21, Reeder and Cairnes do not disclose a radiant warming device mounted on the structure to warm the patient.

Kramer discloses a radiant warming device mounted on the structure to warm the patient (para. 63 of Kramer).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Kramer within Reeder and Cairnes. The motivation for doing so would have been to accommodate the patients' needs (para. 63 of Kramer).

Response to Arguments

10. Applicant's arguments with respect to claims 1 and 22 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's additional arguments filed 9/10/09 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 9/10/09.

(1) Applicant argues that Reeder discloses that the instructions input to the system by the caregiver are related to the monitoring of patient information and not to the *control of medical care to the patient*. Reeder does not interpret the patient information and automatically transmit control instructions based on the patient information. Reeder does not disclose a system providing control instructions or transporting a patient, monitoring device, care device and computing system in a single structure.

(A) As per the first argument, the Examiner referred to the specification, but was unable to find any definition of "control instructions" given with precision, clarity, and deliberateness to warrant the meanings currently argued by Applicant. The Examiner respectfully submits that Applicant's specification states that control instructions are merely data (see page 28, lines 20-21). Paragraphs 86-87 of Reeder, for example, teach transmitting data.

Moreover, words of the claim are generally given their ordinary and customary meaning, unless it appears from the written description that they were

used differently by the Applicant. Where an Applicant chooses to be his or her own lexicographer and defines terms with special meanings, he or she must set out the special definition explicitly and with "reasonable clarity, deliberateness, and precision" in the disclosure to give one of ordinary skill in the art notice of the change. See Teleflex Inc. v. Ficosa North America Corp., 299 F.3d 1313, 1325, 63 USPQ2d 1374, 1381 (Fed. Cir. 2002), Rexnord Corp. v. Laitram Corp., 273 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001), and MPEP § 2111.01. Pursuant to 35 USC § 112, 2nd paragraph "[i]t is Appellant's burden to precisely define the invention, and not the [examiner's]." In re Morris, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997). Therefore, it would not be proper for the examiner to give words of the claim special meaning when no such special meaning has been defined by the Applicant in the written description. In addition, it is noted that where a definition set forth in the written description is merely exemplary the Examiner should not consider this a special definition.

The Examiner respectfully submits that Reeder teaches interpreting the patient information and automatically transmitting control instructions based on the patient information (see para. 12 of Reeder which discloses determining (i.e. interpreting) effectiveness of the treatment of the patient by monitoring the physiological conditions of the patient and para. 86 which discloses automatically transmitting orders or prescriptions).

As per the argument that Reeder does not disclose transporting a patient, monitoring device, care device and computing system in a single structure, the Examiner respectfully submits that paragraph 87 of Reeder teaches a computer

coupled to monitors, treatments devices, and therapy devices. This computer is then transported along with the patient using a single structure (see Fig. 23 of Reeder which shows a bed with wheels).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a method and system for clinical action support (US 2003/0163348 A1).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571)272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LENA NAJARIAN/
Examiner, Art Unit 3686
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9/30/09